

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

HOGENKAMP *et al.*

Appl. No. 09/803,659

Filed: March 12, 2001

For: **Aryl Substituted Pyridines,
Pyrimidines, Pyrazines and
Triazines and the Use Thereof**

Confirmation No. 6633

Art Unit: 1624

Examiner: Balasubramanian, V.

Atty. Docket: 1861.1260001/JMC/THN



RECEIVED
DEC 28 2001
TECH CENTER 1600/2800

Reply To Restriction and Election of Species Requirements

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

In reply to the Office Action dated November 26, 2001 (PTO File Wrapper Paper No. 6), Applicants submit the following Remarks.

It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor are hereby authorized to be charged to our Deposit Account No. 19-0036.

The Examiner has required restriction to one of six groups of inventions, Groups **I-VI**, under 35 U.S.C. § 121. Group **I**, represented by claims 1-51, is drawn to compound of Formula **II** where A₁ and A₂ or A₂ and A₃ are nitrogen and the other CR₂, namely 1,2,4-triazine and pharmaceutical composition, classified in classes 544, subclass 182, class 514, subclass 242. Group **II**, represented by claims 1-51, is drawn to compound of Formula **II**

where A_1 and A_3 are nitrogen and the other CR_2 , namely 1,3,5-triazine and pharmaceutical composition, classified in class 544, subclasses 204, 213, 217, and 218, class 514, subclass 241. Group **III**, represented by claims 1-51, is drawn to compound of Formula **II** where A_1 or A_3 is nitrogen and the other two groups are CR_2 , namely pyrimidine and pharmaceutical composition, classified in class 544, subclasses 298, 315, 316, 319, 323, and 326, class 514, subclasses 256 and 269. Group **IV**, represented by claims 1-51, is drawn to compound of Formula **II** where A_2 is nitrogen and A_1 and A_3 are CR_2 , namely pyrazine and pharmaceutical composition, classified in class 544, subclass 336 and 408, class 514, subclass 252.10. Group **V**, represented by claims 1-51, is drawn to compound of Formula **II** where A_1 , A_2 and A_3 are CR_2 , namely pyridine and pharmaceutical composition, classified in class 546, subclasses 290, 296, and 297, class 514, subclass 277. Group **VI**, represented by claims 52-58, is drawn to various method of use of the compound of Formula **II** and others, classified in class 514, subclasses various depending upon the choice of A_1 , A_2 and A_3 .

Since claim 1 recites only Formula **I** and Formula **I** is generic to Formulae **II-V**, Applicants assume the Examiner inadvertently recited Formula **II** instead of Formula **I** in the above mentioned Groups **I-V**.

Applicants hereby provisionally elect to prosecute the invention of Group **III** (claims 1-51) which is drawn to compounds of Formula **I** where A_1 or A_3 is nitrogen and the other two groups are CR_2 , namely pyrimidine and pharmaceutical compositions. This election is made without prejudice to or disclaimer of the other claims or inventions disclosed.

In addition, Applicants provisionally elect the species 2-[4-(4-chloro-2-fluorophenoxy)phenyl]pyrimidine-4-carboxamide, prepared in Example 4. Claims 1-12, 17-26,


39, and 50-58 read on this species. Applicants assert the right to claim additional species in the event that a generic claim thereto is found allowable in accordance with 37 C.F.R. § 1.141(a).

Both elections are made **without** traverse. To the extent that the election of species requirement as between compounds is treated as a restriction requirement, and/or to the extent that examination is not conducted pursuant to guidelines set forth at M.P.E.P. § 802.3, and/or to the extent that Group **III** is not directed to compounds of Formula **I** where A₁ or A₃ is nitrogen and the other two groups are CR₂ and pharmaceutical compositions, Applicants traverse.

Reconsideration and withdrawal of the Restriction and Election of Species Requirements, and consideration and allowance of all pending claims, are respectfully requested.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.


John M. Covert
Attorney for Applicants
Registration No. 38,759

Date: Dec. 26, 2001

1100 New York Avenue, N.W.
Suite 600
Washington, D.C. 20005-3934
(202) 371-2600



STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

ATTORNEYS AT LAW

1100 NEW YORK AVENUE, N.W. • WASHINGTON, D.C. 20005-3934

PHONE: (202) 371-2600 • FACSIMILE: (202) 371-2540 • www.skgf.com

RECEIVED
DEC 28 2001
TECH CENTER 1500 1000

ROBERT GREENE STERN
EDWARD J. KESSLER
JORGE A. GOLDSTEIN
SAMUEL L. FOX***
DAVID K.S. CORNWELL
ROBERT W. ESMOND
TRACY-GENE G. DURKIN
MICHELE A. Cimbala
MICHAEL B. RAY
ROBERT E. SOKOHL
ERIC K. STEFFE
MICHAEL O. LEE
STEVEN R. LUDWIG

JOHN M. COVERT
LINDA E. ALCORN
ROBERT C. MILLONIG
MICHAEL V. MESSINGER
JUDITH U. KIM
TIMOTHY J. SHEA, JR.
PATRICK E. GARRETT
JEFFREY T. HELVEY*
HEIDI L. KRAUS
JEFFREY R. KURIN
PATRICK D. O'BRIEN
LAWRENCE B. BUGAISKY
CRYSTAL D. SAYLES

EDWARD W. YEE
ALBERT L. FERRO*
DONALD R. BANOWIT
PETER A. JACKMAN
MOLLY A. MCCALL
TERESA U. MEDLER
JEFFREY S. WEAVER
KENDRICK P. PATTERSON
DONALD J. FEATHERSTONE
VINCENT L. CAPUANO
JOHN A. HARROUN*
ALBERT J. FASULO II*
ELDORA ELLISON FLOYD*

W. RUSSELL SWINDELL
THOMAS C. FIALA
BRIAN J. DEL BUONO*
VIRGIL L. BEASTON*
RYAN J. STAMPER*
REGINALD D. LUCAS*
THEODORE A. WOOD
ELIZABETH J. HAANES
BRUCE E. CHALKER
JOSEPH S. OSTROFF
KAREN R. MARKOWICZ**
SUZANNE E. ZISKA**
ANDREA J. KAMAGE**

NANCY J. LEITCH*
JOSEPH M. CONRAD
DOUGLAS M. ALISON*
ANN E. SUMMITT FELD**
CYNTHIA M. BOICHEZ**
HELENE C. CARLSON**
GABY L. LONGSWORTH**
DUSTIN T. JOHNSON**
MATTHEW J. DOWD**
AARON L. SCHWARTZ**

*LIMITED TO MATTERS
AND PROCEEDINGS BEFORE
FEDERAL COURTS & AGENCIES
**REGISTERED PATENT AGENT
***SENIOR COUNSEL

December 26, 2001

WRITER'S DIRECT NUMBER:

(202) 371-2673

INTERNET ADDRESS:

JCOVERT@SKGF.COM

Commissioner for Patents
Washington, D.C. 20231

Group Art Unit 1624

Re: U.S. Utility Patent Application
Appl. No. 09/803,659; Filed: March 12, 2001
For: **Aryl Substituted Pyridines, Pyrimidines, Pyrazines and
Triazines and the Use Thereof**
Inventors: Hogenkamp *et al.*
Our Ref: 1861.1260001/JMC/THN

Sir:

Transmitted herewith for appropriate action are the following documents:

1. Reply to Restriction and Election of Species Requirements; and
2. One (1) return postcard.


It is respectfully requested that the attached postcard be stamped with the date of filing of these documents, and that it be returned to our courier. In the event that extensions of time are necessary to prevent abandonment of this patent application, then such extensions of time are hereby petitioned.

Commissioner for Patents
December 26, 2001
Page 2

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036. A duplicate copy of this letter is enclosed.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.


John M. Covert
Attorney for Applicants
Registration No. 38,759

Enclosures